



WESTMORELAND INTERMEDIATE UNIT

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Schools and Libraries Universal Service
Support Mechanism

A National Broadband Plan
For Our Future

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CC Docket No. 02-6

GN Docket No. 09-51

INITIAL COMMENTS OF THE WESTMORELAND INTERMEDIATE UNIT

The Westmoreland Intermediate Unit #7 (IU), one of 29 Intermediate Units in Pennsylvania, provides educational support services to 17 school districts and three career and technology centers (CTCs) in Westmoreland County. The IU also serves as an E-rate service provider, providing Internet Access services to 10 school districts, three CTCs, the Westmoreland County Community College, and Westmoreland County Government. The IU has been providing Internet Services since 1994.

Although the IU is grateful that the FCC is seeking to make the E-rate program more applicant-friendly, it is concerned with one specific aspect of the Notice of Proposed Rulemaking (NPRM) that will have a counter-effect. Specifically, the IU is concerned that the illustrative examples of prohibitive competitive bidding conduct proposed in paragraph 29 of the NPRM is so restrictive that it will shut-down all E-rate eligible operations by educational service agencies.

The proposed prohibited behaviors include 1) applicant employees or board members may not serve on any board of any type of telecommunications, Internet access, or internal connections service provider that participates in the E-rate program in the same state; and 2) service providers may not offer or provide gifts, including meals, to employees or board members of the applicant.

An Intermediate Units' board of directors is comprised of school board members of the districts served by that IU. Therefore it would not be possible for any intermediate unit providing E-rate eligible services to its member school districts to comply with this rule. Further, intermediate units routinely provide meals to school district employees and school board and IU board members during the course of training, meetings, and other events related to school district or IU business. These meals are in no way intended to influence a school district's decision to purchase Internet services from the IU.

School districts in the Westmoreland IU service territory post Form 470's for Internet access and IU 7 submits a pricing proposal as we assume do other vendors offering such services in the area. The decision whether to purchase service from the IU rests entirely with the school district and the procurement policies and decision making processes they have established. The contracts signed between a school district and the Westmoreland IU are signed by the IU executive director; there is no board approval or involvement whatsoever. Also, pricing for services are set by the IU Director of Financial Services and the Supervisor of Information Technology. Again, there is no board involvement in setting these fees.

The Intermediate Unit has acted in good faith under the ESA guidance that USAC provided several years ago which spelled-out what educational service agencies should do to ensure that no conflict of interest existed relative to the ESA-provided services. The Westmoreland Intermediate Unit does not provide technology planning support or E-rate application and procurement assistance to its districts. But the NPRM proposed language goes much further than the ESA guidance because it would prohibit school board members from serving on the boards of Intermediate Units -- an impossible task for Intermediate Units. Thus, if this language and other such restrictions are formally adopted, it will have the effect of eliminating all IU-provided E-rate eligible services -- services that are typically provided at a much lower cost than other service providers. We believe this result is unintended by the Commission and we implore the FCC to not adopt such prohibitive behaviors and instead rely on the competitive bidding rules and conflict of interest guidelines that currently exist.

Respectfully submitted,


Dr. Luanne Matta
Executive Director

July 2, 2010